

Spinner Dolphin Human Interaction Environmental Impact Statement

Public Scoping Summary Report

April 2007



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National Marine Fisheries Service
Pacific Islands Regional Office

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Acronyms

ANPR	Advanced Notice of Proposed Rulemaking
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
DLNR	State of Hawaii Department of Land and Natural Resources
EA	Environmental Assessment
EIS	Environmental Impact Statement
EO	Executive Order
EPA	Environmental Protection Agency
ESA	Endangered Species Act of 1973
FONSI	Finding of No Significant Impact
FR	Federal Register
MMC	U.S. Marine Mammal Commission
MMPA	Marine Mammal Protection Act of 1972
NEPA	National Environmental Policy Act of 1969
NMML	National Marine Mammal Laboratory
NMFS	National Marine Fisheries Service
NPFMC	North Pacific Fishery Management Council
NAO	NOAA Administrative Order
NOA	Notice of Availability
NOAA	National Oceanic and Atmospheric Administration
NOI	Notice of Intent
NWHI	Northwestern Hawaiian Islands
PIFSC	Pacific Islands Fisheries Science Center
PIRO	Pacific Islands Regional Office
ROD	Record of Decision
URS	URS Corporation
U.S.	United States

1.0 INTRODUCTION

The National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries) is responsible for enforcing the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361 *et seq.* (MMPA) which prohibits the take of marine mammals. Section 3(13) of the MMPA defines the term "take" as "to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal." NMFS has received an increasing number of complaints from constituents charging that Hawaiian spinner dolphins (*Stenella longirostris*) are being routinely disturbed by people attempting to closely approach and interact with the dolphins by vessel (motor powered or kayak) or in the water ("swim-with-wild-dolphin" activities).

On December 12, 2005, NMFS issued an Advanced Notice of Proposed Rulemaking (ANPR) (70 Federal Register [FR] 73426) in the FR requesting comments on whether conservation measures, regulations, and other measures would be appropriate to protect wild spinner dolphins in Hawaii. NMFS received a total of 191 comments on the ANPR from a wide range of stakeholders recommending a variety of actions for NMFS to consider, ranging from no regulations to permanent closure of areas the dolphins use for resting and shelter. NMFS used the comments received on the ANPR to develop a proposed action and alternatives. The proposed action constitutes a Federal action subject to compliance with the National Environmental Policy Act (NEPA) (40 Code of Federal Regulations [CFR] Pts. 1500 – 1508).

On October 2, 2006, NMFS published a Notice of Intent (NOI) to prepare an environmental impact statement (EIS) to fulfill its requirements under NEPA. The NOI presented background information on the issues regarding the Hawaiian spinner dolphins, a description of the current MMPA prohibitions and existing guidelines and regulations, the proposed action, and alternatives. The NOI encouraged stakeholder participation by describing opportunities available for providing public comment, providing a contact person and contact information, and comment deadlines. The EIS will comply with the requirements of Council on Environmental Quality's (CEQ) guidelines for implementation of NEPA and the National Oceanic and Atmospheric Administration (NOAA) Administrative Order (NAO) 216-6.

1.1 Background

Viewing wild marine mammals in Hawaii is a popular recreational activity for both tourists and residents alike. In the past, most recreational viewing focused on humpback whales (*Megaptera novaeangliae*) during the winter months when the whales migrate from their feeding grounds off the coast of Alaska to Hawaii's warm and protected waters to breed and calve. However, in recent years, recreational activities have increasingly focused on viewing small cetaceans, with a particular emphasis on spinner dolphins, which are routinely found close to shore in shallow coves and bays and other areas throughout the main Hawaiian Islands. NMFS encourages members of the public to view and enjoy spinner dolphins in the main Hawaiian Islands in ways that are consistent with the provisions of the MMPA, and supports responsible wildlife viewing as articulated in agency guidelines (<http://www.nmfs.noaa.gov/pr/education/hawaii/>). NMFS is concerned that some activities occurring in Hawaii are not in accordance with these guidelines, and cause unauthorized taking of spinner dolphins, diminish the value to the dolphins of habitat

routinely used by them for resting, or cause detrimental individual-level and population-level impacts to these dolphins.

The biology and behavior of Hawaiian spinner dolphins have been well documented in the scientific literature. Hawaiian spinner dolphins are identified as a race of Pacific spinner dolphins found in and around the Hawaiian Islands, including both the main islands of Hawaii and the Northwestern Hawaiian Islands (NWHI) (Norris et al. 1994). Hawaiian spinner dolphins routinely utilize shallow coves and bays and other areas close to shore during the day to rest, care for their young, and avoid predators, before traveling to deeper water at night to hunt for food (Wursig et al. 1994, Norris 1994). As the dolphins begin or end their resting period, they engage in aerial spinning and leaping behaviors that are noticeable from shore (Wursig et al. 1994). However, when they are in a period of rest, their behavior consists of synchronous dives and extended periods swimming in quiet formation along the shallow bottom (Norris and Dohl 1980, Norris et al. 1985, Wells and Norris 1994, Wursig et al. 1994).

Scientific research studies have documented human disturbance of Hawaiian spinner dolphins during their resting periods along the west coast of the Big Island of Hawaii, most notably in and around Kealahou Bay. Norris and Dohl (1980) noted that “cruise boats” would seek out and run through groups of spinner dolphins during an initial study of the dolphins in 1970, and in follow up research, Norris et al. (1985) found that spinner dolphins were particularly sensitive to disturbance during the early stage of their entry into the bay. Forest (2001) compared sightings records of spinner dolphins in Kealahou Bay from 1979-1980 and 1993-1994, and found that the dolphins were utilizing the bay and engaging in aerial behaviors less frequently than before, and suggested increasing human disturbance as a cause. Courbis (2004) reported high levels of vessel and swimmer traffic in Kealahou Bay and neighboring Honaunau Bay and Kauhako Bay, and found that spinner dolphins exhibited decreased aerial activity during their entry and exit into Kealahou Bay when compared to previous studies, as well as increased aerial activity during mid-day when dolphins typically rest. Spinner dolphins in Kealahou Bay also appeared to have shifted their preferred resting area in response to vessel and swimmer presence.

In Kauhako Bay, dolphins were documented avoiding swimmers and leaving the bay in response to being followed, while in Honaunau Bay, dolphins were documented to spend more time at the mouth of the bay or in deep water at the center of the bay when swimmers were present. Ostman-Lind et al. (2004) found that human disturbance was highest in mid-morning when spinner dolphins begin their rest period, and that secondary resting areas with less vessel traffic were utilized more than had been previously observed, and suggested the dolphins have been displaced from their primary resting areas. In addition, Ross (2001) found that Hawaiian spinner dolphins around Midway Atoll in the NWHI exhibited short-term behavioral changes in response to vessels at distances of 300 meters and 100 meters.

NMFS is concerned that displacement from primary resting areas has the potential for adverse impacts on the dolphins for a number of reasons, including that these secondary resting areas may not provide the same quality of rest and protection from predators as primary areas. NMFS scientists are also concerned about the potential for individual-level and population-level effects because of human activities. NMFS has received an increasing number of complaints from

constituents alleging that spinner dolphins in the main Hawaiian Islands are routinely being disturbed by people attempting to closely approach and interact with the dolphins by vessel (motor powered or kayak) or in the water (“swim-with-wild-dolphin” activities). Concerns have been expressed by officials from the State of Hawaii Department of Land and Natural Resources (DLNR) and the U.S. Marine Mammal Commission (MMC), as well as representatives of the Native Hawaiian community, scientific researchers, wildlife conservation organizations, public display organizations, and some commercial tour operators.

1.2 Description of the Project Area

The geographic scope of these regulations, if proposed, would be the near shore habitats off the main Hawaiian Islands, including the Big Island of Hawaii, Maui, Kahoolawe, Lanai, Molokai, Oahu, Kauai, and Niihau, and their nearby land or land-like masses (e.g., Molokini, Kaohiakipu, etc.) (Figure 1). These are the locations where activities of concern are concentrated. The NWHI do not currently have a significant level of activities of concern, and NMFS feels the remoteness of these islands makes it unlikely that human-dolphin interactions will develop at significant levels in the future. In addition, a Marine National Monument has been designated which encompasses the NWHI.

1.3 Description of the Scoping Process

The scoping process is a requirement of preparing an EIS, and provides persons affected by the project an opportunity to express their views and concerns. Scoping is designed to be an open, public activity for identifying the scope of significant environmental issues related to the proposed project that should be addressed for NEPA compliance. These issues may stem from new information or changed circumstances, the need to address environmental protection concerns, or a need to evaluate different alternatives. Scoping is typically accomplished through written communications, public scoping meetings, and formal and informal consultation with agency officials, interested individuals, and groups.

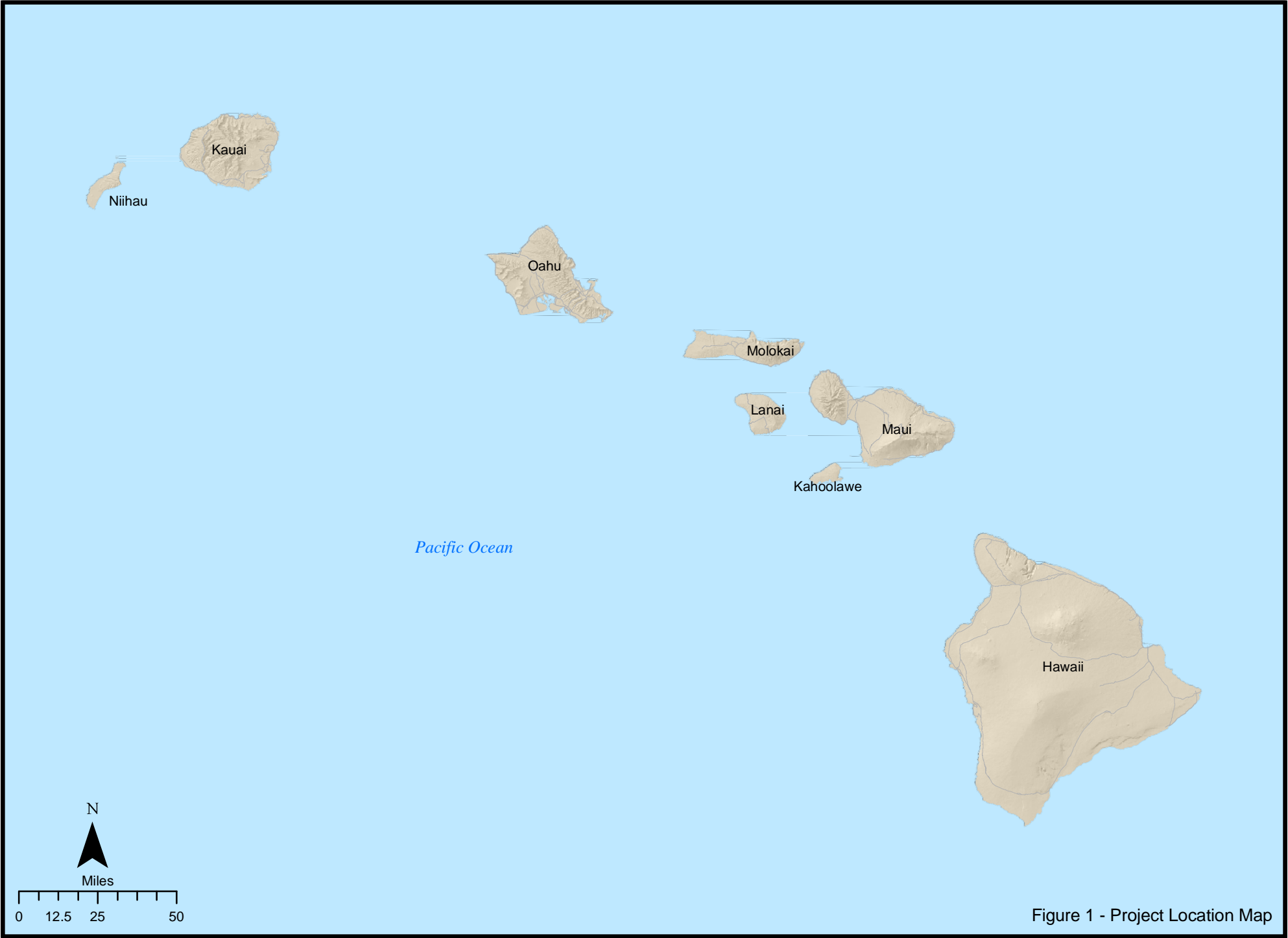


Figure 1 - Project Location Map

The scoping process for the Spinner Dolphin Human Interaction EIS involves presenting the proposed scope of analysis for preparation of the EIS for public comment. The proposed action and alternatives are subject to certain parameters related to 1) the provisions of the MMPA of 1972, as amended, 2) NMFS regulations implementing these statutes, and 3) public involvement.

Marine Mammal Protection Act: The Marine Mammal Protection Act, 16 U.S.C. 1361 et seq., generally prohibits the “take” of marine mammals. Section 3(13) of the MMPA defines the term “take” as “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.” Except with respect to military readiness activities and certain scientific research activities, the MMPA defines the term “harassment” as “any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild, [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].”

For MMPA-protected species, wildlife viewing must be conducted in a manner that does not cause “take.” This is consistent with the philosophy of responsible wildlife viewing advocated by many federal agencies to unobtrusively observe the natural behavior of wild animals in their habitats without causing disturbance (see <http://www.watchablewildlife.org/> and http://www.watchablewildlife.org/publications/marine_wildlife_viewing_guidelines.htm)

NMFS Regulations: NMFS regulations implementing the MMPA further describe the term “take” to include: “the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in disturbing or molesting a marine mammal; and feeding or attempting to feed a marine mammal in the wild” (50 CFR 216.3). The MMPA provides limited exceptions to the prohibition on “take” for activities such as scientific research, public display, and incidental take in commercial fisheries. Such activities require a permit or authorization, which may be issued only after a thorough agency review.

Each of the six NMFS Regions has developed recommended viewing guidelines to educate the general public on how to responsibly view marine mammals in the wild and avoid causing a “take.” These guidelines are available on line at:

<http://www.nmfs.noaa.gov/pr/education/viewing.htm>. The guidelines developed by the NMFS Pacific Islands Regional Office (PIRO) for marine mammals in Hawaii are also available at: http://www.nmfs.noaa.gov/prot_res/MMWatch/hawaii.htm.

The viewing guidelines for Hawaii recommend that people view wild dolphins from a safe distance of at least 50 yards (45 m) and refrain from trying to chase, closely approach, surround, swim with, or touch the animals. To support the guidelines in Hawaii, NMFS has partnered with the State of Hawaii and the Hawaiian Islands Humpback Whale National Marine Sanctuary over the past several years to promote safe and responsible wildlife viewing practices through the development of outreach materials, training workshops, and public service announcements. NMFS' education and outreach efforts have also been supported by a partnership with the Watchable Wildlife program, a consortium of Federal and State wildlife agencies and wildlife

interest groups that encourages passive viewing of wildlife from a distance for the safety and well-being of both animals and people (Duda 1995, Oberbillig 2000).

Public Involvement: Integral to the NEPA process is the public involvement process, which keeps the public, tourism industry, affected state and federal agencies, and Native Hawaiian groups engaged in the project's progress. Preparation of the Spinner Dolphin Human Interaction EIS will provide the public an opportunity to 1) understand the requirements for complying with the MMPA and NEPA, 2) make recommendations on how dolphins should be protected, and 3) review the NMFS proposed action and alternatives. The public involvement process provided a number of opportunities, described later in this report, to submit comments on the scope of the EIS.

This document represents a public record of the scoping activities that began on October 2, 2006, when the NOI was published in the FR to prepare the Spinner Dolphin Human Interaction EIS (70 FR 16202). The NOI established a deadline for the submittal of scoping comments, gave instructions for submitting written comments, and listed the time and location of public scoping meetings for the purpose of submitting oral comments. Comments were received through November 24, 2006, and are summarized in this document. Project scoping materials are located in the Appendices and include:

Appendix A	Federal Register ANPR and NOI
Appendix B	Public Notices
Appendix C	Public scoping meeting transcripts
Appendix D	State of Hawaii Department of Land and Natural Resources (DLNR) letter supporting NMFS' proposed rulemaking
Appendix E	Submission Index

Mechanisms used to inform the public and solicit their comments on the scope of the EIS include:

- development of a mailing list that will be updated throughout preparation of the EIS;
- development of an e-mail list-serve that regularly updates the public on project progress (NAIANEWS) list-serv:
http://listserver.afsc.noaa.gov/read/all_forums/subscribe?name=naianews;
- creation of a project website (http://www.fpir.noaa.gov/PRD/prd_spinner.html);
- five public scoping meetings to disseminate project information and identify issues and concerns that 1) should be addressed in the EIS, and 2) should be used to select the best overall alternative that would meet the purpose and need objectives of this project.
- In addition, the Pacific Islands Photo-ID Network (PIPIN) website, created by the Pacific Islands Fisheries Science Center (PIFSC), presents general information about spinner dolphins in the Hawaiian Islands, photo-id techniques, and news regarding spinner dolphin science and conservation and links to cetacean websites:
<http://pipin.org/community>.

Public scoping tools and approaches are summarized below.

E-mail List-Serve: An initial e-mail list was developed that included: members of the general public; federal, state and local government agencies and groups; public interest groups; Native Hawaiian organizations; and media groups.

Public Notices: Public notices for scoping meetings were prepared that included information on the project, times and locations of scoping meetings, and other means of providing comments. Public notices were advertised in each of the following newspapers. Copies of the public notices for the scoping meetings are included in Appendix B.

NEWSPAPERS	
Honolulu Advertiser 10/8/2006 Meetings advertised: Oahu, Kaua'i, Maui, and Hawai'i	MidWeek 10/11/2006 Meetings advertised: Oahu, Kaua'i, Maui, and Hawai'i
Kauai Garden Isle News 10/8/2006 Meetings advertised: Oahu, Kaua'i, Maui, and Hawai'i	West Hawaii Today 10/15/2006 Meetings advertised: Oahu, Kaua'i, Maui, and Hawai'i
Honolulu Star-Bulletin 10/8/2006 Meetings advertised: Oahu, Kaua'i, Maui, and Hawai'i	Maui News 10/8/2006 Meetings advertised: Oahu, Kaua'i, Maui, and Hawai'i

Agency Consultation and Coordination: The DLNR has expressed their support of NMFS' efforts to propose rules on human-dolphin interactions in the main Hawaiian Islands (see Appendix D). Pursuant to the MMPA, NMFS has authority to promulgate regulations for marine mammals including spinner dolphins. State agencies can be authorized to assist in enforcing such regulations, and DLNR was recently authorized to do so through a Joint Enforcement Agreement (JEA) with NOAA Fisheries. Thus, cooperation between NMFS and DLNR began early on and will continue throughout the EIS process and beyond.

Public Scoping Meetings: Five public scoping meetings were conducted. After the NOI was published, NMFS received a request by State Senator Colleen Hanabusa's office to provide a forum for the kupuna (elders) of the Waianae community to voice their opinions. Because the Waianae coast is the focus of dolphin tours on Oahu and has also seen conflicts between the tour operations and recreational and subsistence fishers, NMFS decided to accommodate this request and the meeting was arranged by Senator Hanabusa's staff. It was therefore not an "official" scoping meeting, but rather a community meeting which NOAA Fisheries was invited to attend. Comments submitted during the Waianae meeting have been incorporated in this report.

The scoping meeting format and all information presented were the same at all meetings. During the open house session, attendees viewed posters that displayed conceptual project information including the purpose and need for the action, and preliminary issues identified by the agency, as well as information on the biology of spinner dolphins. A project overview was then presented by NMFS personnel, which was followed by a formal comment period. A list of people, groups, or agencies who submitted public comments is included as Appendix E. Comment forms were

available to be filled out during the meeting or mailed later. The following table lists the locations and dates for the public scoping meetings and community meeting in Waianae.

PUBLIC SCOPING MEETINGS	
McCoy Pavilion Ala Moana Regional Park 1201 Ala Moana Boulevard Honolulu, HI, 96814 √ October 17, 2006	Hawaiian Islands Humpback Whale National Marine Sanctuary, Headquarters Office 726 S. Kihei Road Kihei, HI 96753 √ October 25, 2006
Aloha Beach Resort Kauai 3-5920 Kuhio Highway Kapa'a, HI 96746 √ October 19, 2006	King Kamehameha's Kona Beach Hotel 75-5660 Palani Road Kailua-Kona, HI 96740 √ October 26, 2006
Waianae District Park Community Center 85-670 Farrington Hwy. Waianae, HI 96792 √ November 21, 2006	

2.0 ISSUE SUMMARY

2.1 Source of Scoping Comments

NOAA Fisheries received a total of 4,641 public comments in response to the ANPR and the NOI. This total includes all letters and email comments submitted to NOAA Fisheries during the public comment period, as well as testimony provided at the five public scoping meetings. The majority, or 77% (3,567) of all public comments was received in response to a petition circulated by one of the dolphin tour operators. Comments received on the December 2005 ANPR are incorporated into this public scoping report, given their relevance to the issues considered in this EIS. These ANPR comments have been coded just as those comments received for the EIS, and are also summarized in this report. Five public scoping meetings were held in October and November 2006 to solicit comments from interested individuals, government agencies, and public interest organizations. Section 1.3 presents a list of the public meeting dates and locations, and informal meeting dates and locations. The public meeting transcripts are included in Appendix C. Comments received identified a broad range of issues similar to those compiled in Section 2.2 of this report.

Table 1. Breakdown of Submissions During Public Scoping by Type.

Type of Submissions	Number of Submissions
E-mails*	4,439*
Written Letters	110
Public Hearing Testimony	75
Comment Forms	17
TOTAL	4,641

*Includes Wild Dolphin Foundation Petition and SongofHome Form Letter.

2.2 Geographical Distribution

Scoping comments were received from 34 states, the District of Columbia, and 17 foreign countries including Canada, various European countries, and Japan. The majority of submissions with known addresses came from individuals or groups with U.S. addresses (Figure 2). Figure 3 illustrates the breakdown of submissions from other countries. Some e-mail comments were submitted without text. Hawaii was the source of the highest number of submissions (186) followed by California (60), and Japan (46). There were also a great number of submissions that did not indicate the country of origin. The total number of public comments does not necessarily indicate that 4,641 people have commented on the Spinner Dolphin Human Interaction EIS, as no attempt has been made to account for duplication of names. Indeed, some people submitted one or more written letters, used e-mail and/or testified at a public hearing; each of these comments was included in the total. There were also three organized response campaigns that submitted comments. Approximately 3,567 submissions received were from a petition circulated by the Wild Dolphin Foundation and submitted in a single e-mail, and approximately 66 were from a form letter submitted as e-mail comments online. The form letter was based on a template comment format provided by a group through their website <http://www.songofhome.com>.

Another set of comments was submitted from the island of Lanai in response to a petition circulated by persons concerned that a particular beach would be closed by the proposed regulations.

Figure 2. Breakdown of Submissions from the U.S.

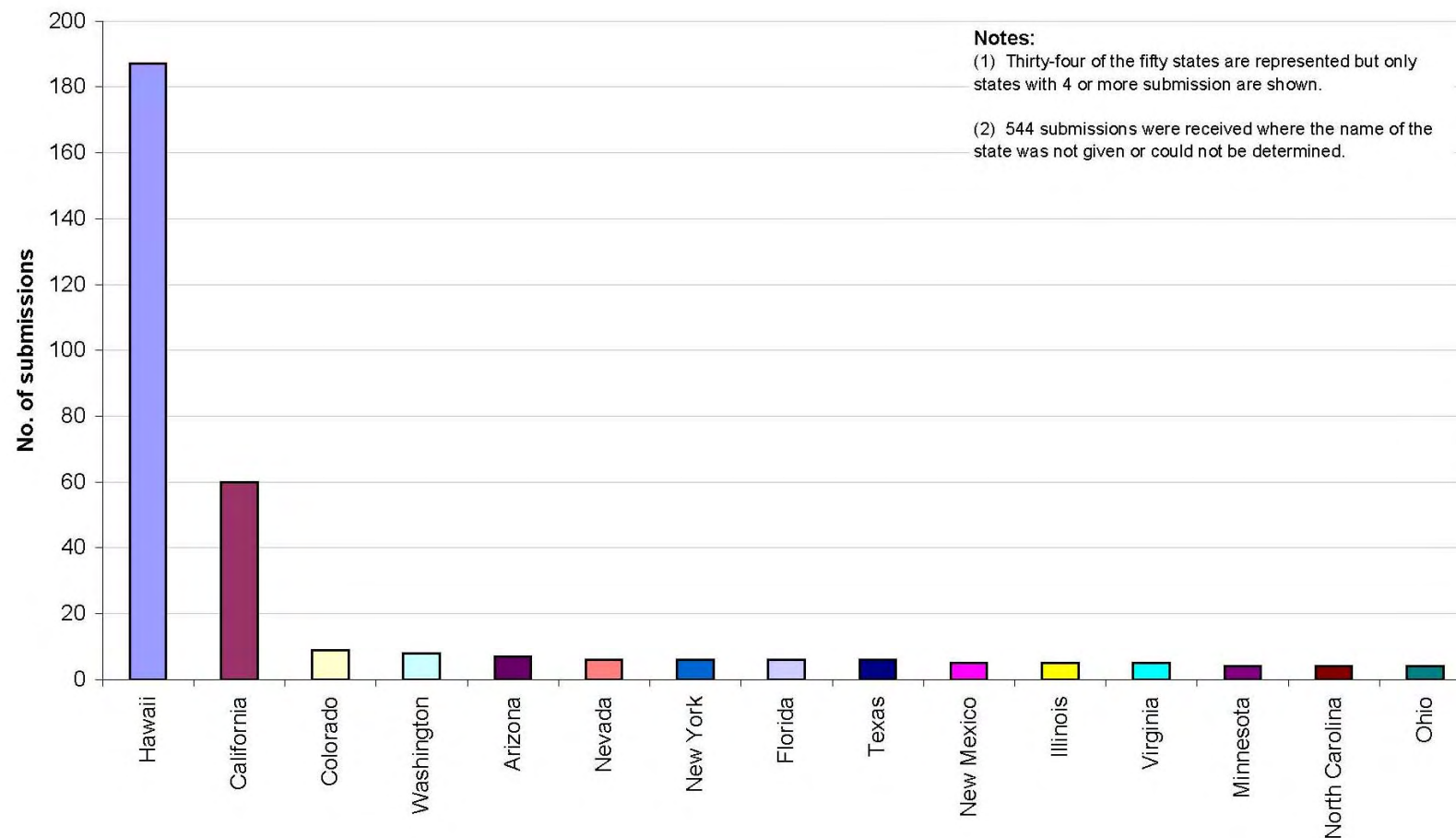
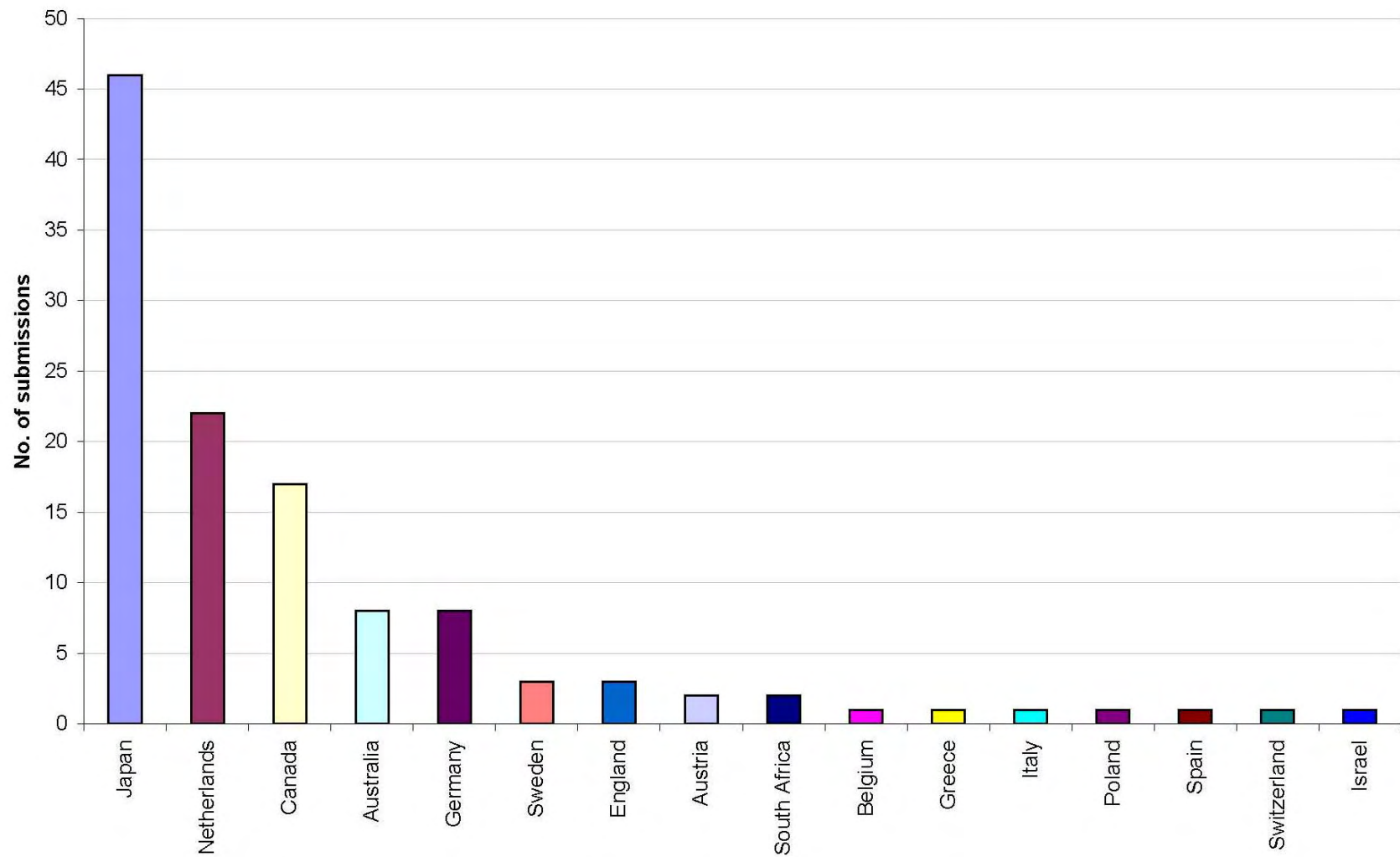


Figure 3. Breakdown of Submissions from Other Countries



2.2 Issues Identified During Scoping

The issues identified during scoping (Table 1) were developed based on all formal comments made for public record (including comments received in the ANPR and during the public scoping period October 2, 2006 through November 24, 2006). The issue codes presented in Table 1 include the preliminary issues and concerns that assist in organizing the comments and present them in a manner that facilitates the preparation of alternatives and evaluation of environmental consequences. The scoping comments received on the Spinner Dolphin Human Interaction EIS have been categorized under issue topics that are based upon 1) the factors of analysis that NMFS is required to address in preparing an EIS, and 2) additional issues raised by the public. The issues are presented by general topic and may include sub-categories that further describe comments received related to that issue.

Comments received during scoping are briefly summarized below. Comments were coded with a three- or four-letter code, as shown below, and may have been coded under multiple issue categories due to content. Therefore, there may be similarities among some of the summary comments presented under the issue codes below. Table 1 presents the scoping comments organized by issue, number of comments per issue, and the total number of comments received. A complete list of people, groups, or agencies that submitted comments is included as Appendix E.

Table 1. Scoping Comments by Issue and Type of Submission

Issue Code	Issue Code Description	Type of Submission				Total
		E-mail	Written Letters	Testimony	Form Letter	
ALT	Alternatives	874	8	145	18	1045
BIO	Dolphin Biology / Behavior	280	28	50	2	360
CUL	Cultural Issues	10	2	8		20
CUM	Cumulative Effects	76	35	36	4	151
DAT	Data / Data gaps	132	34	15		181
DIEF	Direct and Indirect Effects	73	56	66	11	206
EDU	Educational and Outreach Programs	237	22	33	3	295
ENF	Enforcement	63	13	77	3	156
ESA	Endangered Species Act	3	0	1		4
GUID	Solutions/Guidelines from Other Countries	9	0	1	1	11
HAB	Habitat	16	0	10		26
HUM	Dolphin-Human Interaction	315	104	49	10	478
MED	Medical Benefits of Swimming with Dolphins	102	11	4		117
MMP	Marine Mammal Protection Act	8	1	3	1	13
MON	Monitoring	19	1	6		26
NEPA	National Environmental Policy Act	4	2	4		10
PUB	Public and Stakeholder Involvement	3	2	5		10
REG	Regulatory Regime	19	4	13	1	37
SEN	Social and Economic Issues	179	36	26	1	242
SPIR	Spiritual and Religious Issues	196	4	11	1	212
TAKE	Take and Harassment	13	5	3	2	23
TK	Hawaiian Traditional Knowledge	2	4	10	2	18
WEL	Welfare of the Dolphins	107	0	0	1	108

Table 2. Comment Summaries

CODE	SUMMARY STATEMENT
ALTERNATIVES	
ALT 01	Statements in favor of Alternative 1, or general statements requesting that opportunities to swim with dolphins remain lawful.
ALT 02	Statements in favor of Alternative 2 or the implementation of a minimum distance limit.
ALT 03	Statements in favor of Alternative 3, with some suggestions for modifications to the alternative.
ALT 04	Statements in favor of Alternative 4, or general statements in favor of bay closures.
ALT 05	Statements on limiting or monitoring the type and number of commercial and non-commercial activities impacting the dolphins, with some suggestions for establishing procedures, such as a permitting process for commercial tour operators, or programs, such as land-based observation stations.
ALT 06	Statements that one or more of the alternatives or components of the alternatives, such as minimum distance limits and "dolphin resting zones," are not feasible options, largely because they would be difficult to enforce and because of the unpredictability of dolphin behavior.
ALT 07	Statements that implementing proposed alternatives could have negative impacts on other activities, such as diving, fishing, swimming, kayaking, or surfing, as well as on community relations, and that these potential impacts should be considered.
ALT 08	Statements requesting the establishment of formalized guidelines for human-dolphin interactions and/or the use of educational tools to protect the dolphins in lieu of the proposed alternatives.
ALT 09	Consider allowing people in areas closed due to time/area closures when no dolphins are present, particularly during high wave activity to accommodate surfers.
ALT 10	Statements not in favor of Alternative 4 or complete area closures.
ALT 11	Statements in support of partial time/area closures with general and specific suggestions for closure times, areas that should or should not be closed, and ways to delineate restricted areas.
ALT 12	Implement an enforceable, well-defined alternative that would assign legal and/or financial penalties for infractions.
ALT 13	Statements in favor of a more flexible regulatory approach that would allow modification of time/area closures based on new data and would provide for studies (on dolphin lifespan, mortality, population levels) following implementation of any alternative to determine its effectiveness and to guide future modifications.
ALT 14	Statements expressing general disagreement with the proposed action or with one or more of the proposed alternatives, with some requests for more enforcement of existing regulations and some requests for more restrictive measures than are provided by the proposed alternatives.

- ALT 15 Partial time/area closures will not curb the number of people who will swim with the dolphins; rather, they will result in added pressure to dolphins during open hours and to dolphins in areas that are not closed. Additionally, restrictions may simply move the pressure to other species that will not be as protected.
- ALT 16 Statements in support of more restrictions on boat-handling behaviors and/or the establishment of Best Practice Guidelines for boaters (commercial and non-commercial) near dolphins in and outside of resting areas.
- ALT 17 Statements requesting that before an alternative is implemented, clearly defined goals of additional regulation and proof that human-dolphin interactions are detrimental to dolphins should be provided.
- ALT 18 Statements in support of prohibiting one or more of the following interactions with dolphins: swimming, touching, approaching, or feeding.
- ALT 19 Decommmercialize or ban swim-with-dolphins programs.
- ALT 20 General statements expressing support for greater protection of Hawaiian spinner dolphins.
- ALT 21 General statements supporting implementation of regulations that would protect the dolphins, but would also allow continuation of the swim-with-dolphins programs.
- ALT 22 Statements either for or against a government-sponsored swim-with-dolphins program.
- ALT 23 Statements requesting that specific measures ensure the rights of safe passage for vessels.
- ALT 24 Statements requesting that NOAA's existing guidelines for viewing spinner dolphins be codified.
- ALT 25 Statements requesting that a regional approach to protecting dolphins be adopted.

DOLPHIN BIOLOGY AND BEHAVIOR

- BIO 01 Dolphins choose to be with/near the human swimmers. The dolphins set the distance and time to interact with humans. Dolphins have the physical ability to swim where, when, and how fast they want, which includes both toward and away from humans. They can swim faster than any human.
- BIO 02 Dolphins choose to swim with humans, and not vice versa, because they enjoy the social interactions and learning opportunities. Dolphins demonstrate their joy at being around humans by spinning and leaping and racing towards the boats and swimmers.
- BIO 03 Even interactions deemed as positive (i.e., dolphins swimming up to a boat or kayak) are still altering the natural ecosystem and behavior of dolphins.
- BIO 04 Credence should be given to established human-dolphin interaction methods that have been studied/observed over many years.
- BIO 05 Comments related to biological and/or behavioral observations or references.
- BIO 06 Current research and ideas suggest that much human impact on resting dolphins occurs close to shore, in bays and other calm areas.
- BIO 07 Dolphins are very intelligent creatures.
- BIO 08 How can it be determined if a boat/human approached a dolphin, or vice versa? How can punishment be based on this determination?

- BIO 09 Dolphins do not eat during the day, thus humans feeding them is not an issue.
- BIO 10 The amount and type of interaction should be determined by the dolphins, not humans.
- BIO 11 There are other more pressing and harmful issues affecting dolphins (i.e., sonar) than humans swimming with them, which appears to have minimal impact.
- BIO 12 Because of too many human interactions, dolphins are losing both their requisite time and areas to rest.
- BIO 13 Dolphin population numbers are uncertain. Statements expressed that the dolphin populations were stable while others stated they were decreasing, or increasing.
- BIO 14 Humans can pass diseases to dolphins.
- BIO 15 Regional differences in dolphins should be addressed in this study.
- BIO 16 If dolphins do not want to be with humans, they flick their tail once or twice and then disappear.

CULTURAL ISSUES

- CUL 01 Time/area closures and other restrictions should recognize Native Hawaiian cultural and public access rights.
- CUL 02 Too many entities want to make money off Hawaii's resources. Hawaii's resources and culture are being sold and exploited to benefit someone else.
- CUL 03 When considering closures to both commercial and non-commercial activities, remember that Native Hawaiian traditional uses of the bays and gathering rights come first before any other rights.
- CUL 04 Decision makers and Native Hawaiians (kupuna/elders) must work together to accommodate local culture, local livelihoods, and the visitor industry, to save natural resources and promote safety.
- CUL 05 Hawaiian culture has had a long relationship with the nai'a (dolphins). This respect should be taught to the keiki (children) in schools.
- CUL 06 Hawaiian culture has had a long standing practice of swimming with the nai'a. To forbid this would infringe on people's religious and spiritual traditions and practices.

CUMULATIVE EFFECTS

- CUM 01 NMFS should focus its attention on impacts to dolphins from sonar use and other military activities, rather than on "swim-with-dolphin" programs.
- CUM 02 NMFS should focus its attention on impacts to dolphins from pollution, rather than on "swim-with-dolphin" programs.
- CUM 03 NMFS should focus its attention on impacts to dolphins from fishing, commercial (e.g., tuna industry, fish farming) and non-commercial (sport fishing), rather than on "swim-with-dolphin" programs.
- CUM 04 NMFS should focus its attention on impacts to dolphins from increased Super-ferry and other marine vessel traffic, rather than on "swim-with-dolphin" programs.
- CUM 05 NMFS should consider all recreation activities, not just tourist-based ones, when evaluating impacts.
- CUM 06 NMFS should focus its attention on impacts to dolphins from decreased food supply and increased predator populations, rather than on "swim-with-dolphin" programs.

- CUM 07 NMFS should focus its attention on impacts to dolphins from other activities (unspecified), rather than on "swim-with-dolphin" programs.
- CUM 08 NMFS should focus its attention on impacts to dolphins from oil companies and other industry, rather than on "swim-with-dolphin" programs.
- CUM 09 Dolphins use bays in spite of increased activity in the bays.
- CUM 10 Fishermen are not having a negative impact on dolphin populations or bay use.
- CUM 11 NMFS should focus its attention on impacts to dolphins from their being captured for amusement parks, zoos, and hotels, rather than on "swim-with-wild-dolphin" programs.
- CUM 12 NMFS should focus its attention on impacts to dolphins from global warming, rather than on "swim-with-dolphin" programs.
- CUM 13 NMFS should focus its attention on the increasing number of shark attacks.

DATA / DATA GAPS

- DAT 01 General statements regarding the need for more research, the lack of data on impacts, or questions about the amount of data available.
- DAT 02 Statements that more evidence is needed to show that human-dolphin interactions cause or have caused a rise in dolphin mortality before regulations are promulgated; or statements asserting there is no evidence of harm to dolphins from "swim-with-dolphin" programs.
- DAT 03 Statements that the current lack of data on population size/abundance will not be enough to determine the success of any actions taken. Current baseline data on spinner dolphins in Hawaii are inadequate.
- DAT 04 Statements that data show "take", including harassment and encroachment from unauthorized human activities, has occurred.
- DAT 05 Statements offering personal observations as data.
- DAT 06 Statements that scientific data presented by NMFS are flawed. For example, data are contradictory or inconclusive, that different methods are not comparable, rigorous or adequate, that the research is not applicable, and that scientific researchers don't spend enough time in the area.
- DAT 07 There is no evidence that human-dolphin interaction is harmful to the dolphins.

DIRECT AND INDIRECT EFFECTS

- DIEF 01 The current level of human interaction, which has increased over the years, is negatively affecting the population numbers and behaviors of dolphins and likely needs stronger constraints.
- DIEF 02 The current and past level(s) of human interaction have not had a negative affect on the population numbers and behaviors of dolphins and therefore do not require management changes. Moreover, if any impact has occurred, it has been mutually beneficial.
- DIEF 03 Motorized tour boats deliberately chase down, go through, and then drop swimmers off in the middle of a pod of dolphins.
- DIEF 04 Dolphin interaction tours, as well as non-commercial encounters, often lead to uneducated and/or misguided people harassing and disturbing dolphins.

- DIEF 05 The data relating to long-term impacts of human and dolphin interactions are not conclusive and more studies are needed.
- DIEF 06 The current level of human interactions is not only negatively affecting dolphins, but also other species (including humans) and ecosystem factors.
- DIEF 07 Impacts from motor boat interactions (with or without swimming) likely are the most detrimental and deserve more consideration than unassisted swimming encounters from shore.
- DIEF 08 Dolphins appear more playful and energetic when in the presences of humans/boats.
- DIEF 09 Because dolphins are wild animals, interactions with them can result in injury to humans.
- DIEF 10 Not all motorized tour boat operators are involved in human-dolphin swims, and many of the boats that do operate swims cause minimal, if any, disturbance to individual dolphins or their pods.
- DIEF 11 The increased demand for dolphin interaction, and their subsequent impacts, is a result of the tourist industry and therefore tour operators are the ones who should be managed with more regulations, not fishermen.
- DIEF 12 Impacts from swimming interactions likely are the most detrimental to dolphins, followed by kayak and vessel trips (without any swimming).
- DIEF 13 Over-regulation of dolphin interactions might impact other users and areas of the ocean.
- DIEF 14 Impacts from things like large vessels, commercial fisheries, sonar, and pollution have more negative impacts than humans swimming with dolphins.
- DIEF 15 Dolphin tours have a positive and direct impact on Hawaiian economies.

EDUCATION / EDUCATIONAL OUTREACH

- EDU 01 A comprehensive public and tour boat operator education program is needed in combination with rules and guidelines.
- EDU 02 A comprehensive public education program is needed, not rules and guidelines restricting interaction.
- EDU 03 Tour boats and existing companies provide adequate education regarding human-dolphin interaction.
- EDU 04 There is very little education on tour boats, on the ground, or in hotels for proper dolphin interaction.
- EDU 05 People should not be deprived of the educational benefits that are gained by swimming with dolphins.
- EDU 06 NOAA/NMFS representatives should be present on boats to instruct and educate the public and operators about proper human-dolphin interaction.
- EDU 07 Utilize existing laws, professional knowledge, and education programs.

ENFORCEMENT

- ENF 01 It is the responsibility of NMFS to regulate and enforce rules for human-dolphin interaction.
- ENF 02 Create a permit system to regulate human-dolphin interaction. This will ensure a permittee understands and has knowledge of the human-dolphin interaction issue and could supplement enforcement. A single violation should result in revocation.
- ENF 03 Put NMFS representatives on tour boats for education and enforcement.
- ENF 04 The human-dolphin tourism industry is not regulating itself.
- ENF 05 Local communities have been attempting to coordinate with State and Federal agencies to establish a self-regulating, education-based system to regulate the beaches.
- ENF 06 Enforcing a minimum distance rule when dolphins approach humans and boats will be extremely difficult.
- ENF 07 Guidelines and rules are easily violated; make them clear and enforceable laws with penalties.
- ENF 08 Adding more responsibilities to understaffed State and Federal agencies will limit enforceability. Funding and enforcement staff are required to make regulation successful.
- ENF 09 Determining if swimmers or boats are pursuing or harassing a pod of dolphins within a minimum distance rule would be enforceable.
- ENF 10 Make the guidelines and rules enforceable.
- ENF 11 Enforce existing regulations instead of creating new ones.
- ENF 12 Create a no-feeding law and strictly enforce it.
- ENF 13 Transit and the right of safe passage should be maintained, not regulated by NMFS.
- ENF 14 Interpreting rules and violations can be subjective and enforcement will be unbalanced.
- ENF 15 Enforcing guidelines and rules from the shoreline or bays will be difficult, inaccurate, and flawed in the off-shore open ocean.
- ENF 16 The proposed rules are not enforceable.
- ENF 17 Individuals at the public meetings admitted to breaking existing codes of responsible viewing conduct and should be penalized for harassment.
- ENF 18 Criminalizing unintentional violators is ineffective, unconstitutional, and a waste of enforcement resources.
- ENF 19 The general public and people associated with tour operations should be able to assist with enforcement, with the understanding that voluntary enforcement, including self-regulation, could be successful.
- ENF 21 Rules and enforcement of these rules could result in lawsuits against NMFS.
- ENF 22 Enforcement and fines should only apply to people who intentionally break the rules.

ENDANGERED SPECIES ACT

- ESA 01 Spinner dolphins should not be considered an endangered species.
- ESA 02 Apply the existing ESA requirements for whales to dolphins.

GUIDELINES / SOLUTIONS FOR OTHER SPECIES OR FROM OTHER COUNTRIES

- GUID 01 There are many good examples of tour operators who treat dolphins with respect. Please visit www.familyofdolphins.com for good examples of how to treat dolphins.
- GUID 02 The Canadian government regulates the number of whale watching boats that are allowed and the distances they must keep from whales.
- GUID 03 Swim-with-dolphins tours are legal in New Zealand where tour operators are issued permits by the New Zealand Department of Conservation. The New Zealand government also regulates the time/area closures for boats, swimmers, and divers/snorkelers.
- GUID 04 Regulations on interacting with endangered species and other wildlife in our nations parks works well; animals may not be touched. This approach should be advocated for dolphins.
- GUID 05 In other regions of the world, "swim-with-dolphins" tour operators take a break during the middle of the day to allow the dolphins to rest.

HABITAT

- HAB 01 Comments identifying specific bays and other areas where spinner dolphins can be found.

HUMAN-DOLPHIN INTERACTION

- HUM 01 Dolphins often make the choice to swim toward humans, who are not chasing or trying to grab them, and engage in playful behavior.
- HUM 02 Humans and dolphins have a long history of mutually beneficial positive interactions without major detrimental effects, including people rescuing dolphins and vice versa.
- HUM 03 Personal experiences of how peaceful interaction with dolphins has significantly affected many lives, and the world, in a positive manner.
- HUM 04 Individuals want to visit Hawaii and swim with dolphins, but Hawaiian residents also want to interact with dolphins and do.
- HUM 05 Human and dolphin lives will be negatively altered forever without the respectful interaction of dolphins and people.
- HUM 06 Even if it sometimes seems peaceful, human interactions (possibly due to the quantity of people) harass and negatively affect the environment of dolphins and the other species.
- HUM 07 Dolphins always have the power to swim away from humans when they want and dolphins usually cannot swim from motor powered boats.
- HUM 08 Swimmers and dolphins rarely interact.
- HUM 09 If regulations governing interactions with dolphins and humans grow too controlling, other aspects of human and educational use of marine waters will be negatively impacted.
- HUM 10 Sometimes dolphins harass/approach humans, not vice versa, and that would be difficult to regulate.
- HUM 11 Human/swimmer interactions with dolphins have increased over the past 10-20 years.

- HUM 12 Encouraging respectful interaction with wild dolphins is better than promoting any kind of interactions in captivity.
- HUM 13 It is dangerous for humans to swim with dolphins because sharks often frequent areas with dolphins.

MEDICAL BENEFITS FROM SWIMMING WITH DOLPHINS

- MED 01 Interactions with dolphins have the power to heal people.
- MED 02 Swimming with the dolphins heals depression and other emotional issues/mental illness.
- MED 03 Swimming with dolphins helps (heals) autistic children and those with Down Syndrome.
- MED 04 Swimming with dolphins has the capacity to bring relief and/or healing of physical pain and ailments, such as relief from cancer symptoms.
- MED 05 Dolphin interaction is therapeutic.
- MED 06 Swimming with dolphins provides an alternate form of healing that traditional western medicine cannot address.
- MED 07 Swimming with the dolphins helps survivors of sexual abuse and assault to heal.
- MED 08 Swimming with dolphins helps children with cerebral palsy and other disabilities.
- MED 09 Dolphins have rescued people injured while swimming or boating.
- MED 10 Swimming with dolphins is one of the most popular "Make-A-Wish" requests for children with terminal illnesses.

MARINE MAMMAL PROTECTION ACT

- MMP 01 The MMPA currently protects spinner dolphins, rendering the proposed regulation unnecessary. A suitable mechanism is needed to reign in irresponsible dolphin interaction and harassment as the MMPA defines it.
- MMP 02 Violations of the MMPA have been witnessed and reported. The MMPA needs to be enforced.
- MMP 03 The MMPA exceptions for activities such as scientific research, public display, and incidental take in commercial fisheries are double standards. Resources devoted towards assessing potential threats of human-dolphin interaction could be better utilized.
- MMP 04 The MMPA needs to be enforced in combination with regulations that will limit tour boat operations.
- MMP 05 A lawsuit is warranted against NMFS for neglect and failure to respond to reported violations of the MMPA. NMFS is liable for subsequent losses of spinner dolphins.
- MMP 06 Discussion of current MMPA prohibitions and NMFS guidelines and regulations is limited in scope, only addressing take, and needs to be expanded to include protection of crucial marine mammal habitat.
- MMP 07 Skilled and experienced researchers are required to complete an arduous permitting process to conduct research and interact with marine mammals.

MONITORING

- MON 01 A research and monitoring component needs to be implemented to determine the effects of human interaction on dolphins.
- MON 02 It needs to be identified who will monitor the effectiveness of partial- or full-bay closures being implemented.
- MON 03 Will monitoring be temporary or permanent; and will it be stationary or follow dolphin movement patterns?
- MON 04 There should be a public monitoring system where the general public can report harassment violations.
- MON 05 Recreation and tour organizations who advertise and profit from dolphin interaction should be monitored.

NATIONAL ENVIRONMENTAL POLICY ACT

- NEPA 01 This public commenting period is simply satisfying the NEPA process requirements and will not stop regulation to prohibit swimming with dolphins.
- NEPA 02 The process of developing an EIS or rules is taking too long and is too late.
- NEPA 03 An EIS documenting increased mortality rates as a result of human-dolphin interaction should be completed before regulatory decisions are made.
- NEPA 04 The concept of an open and public forum has already been violated due to the fact that a proposed action and alternatives have already been decided upon.
- NEPA 05 There is concern regarding how many bay closures will result from the EIS and whether more closures are expected in the future.

PUBLIC AND STAKEHOLDER INVOLVEMENT

- PUB 01 More information should be made available to the public before any action is taken, especially due to the short time period to vote on this issue.
- PUB 02 NMFS worked on this issue with stakeholders last year; this group included an anthropologist who was an expert in human-animal interactions and none of the information from that work or the letters we submitted to NMFS are reflected in the information presented at the scoping meetings.
- PUB 03 The FR notice for these scoping meetings was received too late.
- PUB 04 We [those that interact with dolphins] are your best advocates so it behooves us to work together to educate the rest of the world about swimming with dolphins.
- PUB 05 NMFS is going to create restrictions and then leave the public to deal with the consequences.
- PUB 06 There are several stakeholders involved with this issue: spinner dolphins; tour boats (those that view dolphins from the boat and those that specifically swim with dolphins in the water); local islanders that swim and snorkel with dolphins; and tourists who kayak or swim with dolphins in the bays.

REGULATORY REGIME

- REG 01 Dolphin interaction permits are not currently being issued.
- REG 02 It is currently NMFS' responsibility to provide rules with the best interest of the dolphins, not economics, in mind.
- REG 03 The DLNR previously stated that they intended to regulate human-dolphin interaction.
- REG 04 At some bays there is currently a moratorium restricting more commercial vessels.
- REG 05 The State guideline to stay 50 yards away from dolphins is sufficient.
- REG 06 The regulations and rules currently in place are adequate and need to be clarified and enforced.
- REG 07 Current rules are not effective or enforced at the Waianae coast.
- REG 08 Tour boat operators should abide by current marine mammal viewing guidelines.
- REG 09 NMFS currently prohibits the feeding of all marine mammals.
- REG 10 Ocean user meetings were historically held where captains and crews were explained marine mammal guidelines and informed of potential prosecution upon violation.
- REG 11 Recreation limits in the past have completely hindered human-dolphin interaction.
- REG 12 Current guidelines are being violated and not enforced.
- REG 13 NMFS currently has sufficient legislative and regulatory standing to take action against offenders.
- REG 14 The NMFS "Code of Conduct for Dolphin Viewing" should be enforced.
- REG 15 Current, well-published guidelines are available and should be distributed to all tour boats, recreation areas, watersport rental agencies, and incoming airline flights.
- REG 16 Existing dolphin viewing guidelines should be converted to law with a monetary penalty.
- REG 17 Increased enforcement of current regulations should be an alternative in the EIS.

SOCIAL AND ECONOMIC ISSUES

- SEN 01 Many small local operations will experience economic hardships or go out of business (e.g., dive shops, snorkel operations, kayak operations, seafood shops, etc.)
- SEN 02 If human-dolphin interaction is restricted, people may not or will not visit Hawaii, and some residents may leave.
- SEN 03 Whale and dolphin watching and human-dolphin interaction opportunities are sought out by tourists (and potential retirees/residents) and a primary reason why people visit and move to Hawaii.
- SEN 04 Whale and dolphin watching and human-dolphin interaction opportunities are important to the economies of the State of Hawaii and many towns, and placing restrictions on these tourist activities will have negative impacts to the economy.
- SEN 05 The area fisheries are also economically important to Hawaii; human-dolphin interaction opportunities and the flurry of activity associated with them have negative economic impacts by causing declining fisheries.
- SEN 06 Partial closures (time and/or area) will affect fishermen.

- SEN 07 Restricting human-dolphin interaction opportunities will impact the livelihoods of the tour operators more than the fishermen.
- SEN 08 People will be affected by lack of employment if human-dolphin interaction is restricted.
- SEN 09 Comments regarding monetary amounts generated by activities and annual revenues, etc.
- SEN 10 Economics should not be considered when establishing regulations.
- SEN 11 Human-dolphin interaction tour operators can operate different types of tours if these regulations are passed.
- SEN 12 Stop making money off the dolphins. Money should not be made off the dolphins.

SPIRITUAL AND RELIGIOUS ISSUES

- SPIR 01 Swimming with dolphins provides a feeling of peace and connectedness to nature.
- SPIR 02 Swimming with dolphins is one of the most profound and positive experiences in one's life, a life-changing event.
- SPIR 03 Dolphins are a loving species and send these feelings out to the humans swimming with them.
- SPIR 03 Swimming with dolphins has a healing effect, both spiritual and emotional, such as healing depression.
- SPIR 04 The romanticized idea of human-dolphin interaction, which is causing more people to want to interact with them, is negatively affecting dolphin behavior.
- SPIR 05 Dolphins communicate telepathically with humans to teach humans about the planet and global peace.
- SPIR 06 Although there are claims that human-dolphin interaction is healing to dolphins as well, there is evidence of pod sizes decreasing.
- SPIR 07 Healing comes from within; one doesn't have to chase dolphins to find peace and healing.
- SPIR 08 A ban on swimming with the dolphins infringes on people's First Amendment Rights.
- SPIR 09 To ban swimming with the dolphins would infringe on the freedom to practice our religion, Ka Ohana O Nai'a, a spiritual ministry founded on principles of oneness with dolphins and whales as our aumakua (personal gods or deified ancestors).

TAKE AND HARASSMENT

- TAKE 01 Dolphins are harassed by the efforts of humans to interact with them.
The terms "take" and "harassment," as defined by the ESA and MMPA, do not apply to the activities of tour operators and private user groups.
- TAKE 02
- TAKE 03 Define the terms "take" and "harassment" according to the ESA and MMPA.
- TAKE 04 Further delineate the definitions of "harassment" and "take," clarifying specific activities that should be prohibited with regard to spinner dolphins.

HAWAIIAN TRADITIONAL KNOWLEDGE

- TK 01 Decision makers do not respect or take into account Native Hawaiian culture, knowledge, and viewpoints.
- TK 02 Researchers/scientists need to listen to Native Hawaiians' knowledge and experience and not rely solely on outside science.

- TK 03 The ocean habitat holds spiritual significance. Generations of Native Hawaiians have interacted with the nai'a in a respectful way. Dolphins are family and were left alone and in peace. It is the Westerners who want to chase and bother dolphins for their own gain.
- TK 04 Western ideas of spirituality are being used to justify human-dolphin interaction. Hawaiians know to respect the dolphins and leave them at peace.
- TK 05 Research is needed to better understand the nai'a and the relationship between nai'a and the Hawaiians. This should be accomplished through interviews with Native Hawaiian elders.
- TK 06 Populations of dolphins have diminished over recent generations.

WELFARE OF THE DOLPHINS

- WEL 01 Activities of tour operators and private user groups do not endanger the welfare of spinner dolphins.
- WEL 02 Comments concerning the legality of dolphins in captivity.

3.0 SUMMARY OF FUTURE STEPS IN THE EIS PROCESS

Scoping is the first step in the EIS preparation process. Several more steps are necessary to complete the Spinner Dolphin Human Interaction EIS. The following figure depicts the requirements of the EIS process that falls within the framework of NEPA.

Figure 4 Spinner Dolphin Human Interaction EIS NEPA Planning Steps



3.1 Development of Project Purpose and Need

An EIS must explain the underlying purpose and need to which NMFS is responding in proposing regulations, including the proposed action. A preliminary purpose and need has been developed as described earlier in this report.

3.2 Description of the Affected Environment

Preparation of a focused description of the affected environment is needed to analyze the potential effects of the proposed action and its alternatives. The description of the affected environment will include a summary of the most recent scientific data available on all affected resources. This step has begun, and the analysis will provide the baseline reference for the development and evaluation of alternatives.

3.3 Formulation of Alternatives

A reasonable range of alternatives offering distinct choices of various regulations which meet the purpose and need for the project will be identified. All pertinent input from the public scoping process will be used to examine the range of potential alternatives to ensure that the full spectrum of positions expressed by participants in the scoping process has been considered. Alternatives eliminated from further consideration and not brought forward for formal analysis in the EIS will be identified, along with justifications for elimination. This step began in November 2006 and will continue through Spring/Summer 2007.

3.4 Analyzing the Effects of the Alternatives

Once the alternatives are developed, the next step involves analyzing the effects of each alternative on the environment. This will include analysis of potential cumulative effects of each of the alternatives. NMFS expects to complete this process in Summer/Fall 2007.

3.5 Write and Publish the Draft EIS

The results of the previous steps will be compiled in a preliminary Draft EIS that will be reviewed internally and approved by NMFS. The approved Draft EIS will be printed for distribution to the public for a 45-day review period. NMFS will provide a Notice of Availability (NOA) published in the FR, which identifies the timing of the review period, time and location of public hearings on the Draft EIS, and any deadlines for submitting comments on the Draft EIS. NMFS will also distribute newsletters and provide information on the project website that contains this information. NMFS anticipates beginning the public comment period in the Fall/Winter of 2007/2008.

3.6 Issuing the Proposed Final EIS

Based on the information contained in the Draft EIS and public comments received, NMFS will analyze and respond to the substantive comments received on the Draft EIS. Changes may be made to the information and analyses contained in the Draft EIS, and NMFS will select a preferred alternative and present it to the public in the Final EIS. This step will include public notices of the document's availability, the distribution of the document, and a 30-day review period on the final document. NMFS anticipates project completion in late 2008.

4.0 CONTACTS

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5.0 REFERENCES

- Christie, S. 1998. Learning to live with giants: Elephant seals get the right of way at Piedras Blancas. *California Coast & Oceans*, 14(1):11-14.
- Courbis, S.S. 2004. Behavior of Hawaiian spinner dolphins (*Stenella longirostris*) in response to vessels/swimmers. Masters Thesis, San Francisco State University. pp. 209.
- Duda, Mark D. 1995. *Watching Wildlife: Tips, Gear and Great Places for Enjoying America's Wild Creatures*. Falcon Press Publishing Co., Helena and Billings, MT. 117 pp.
- Forest, A. 2001. The Hawaiian spinner dolphin, *Stenella longirostris*: Effects of tourism. Masters Thesis, Texas A&M University. 91 pp.
- Johnson, C.M. and K.S. Norris. 1994 Social Behavior. In: K.S. Norris, B. Wursig , R.S. Wells and M. Wursig (Eds.), *The Hawaiian Spinner Dolphin*. University of California Press, Berkeley. Pp. 14-30.
- Marine Mammal Protection Act. 16 U.S.C. et seq. and 50 CFR part 216.
- NMFS. 1994. Report to Congress on Results of Feeding Wild Dolphins: 1989-1994. NOAA/National Marine Fisheries Service, Office of Protected Resources. 23 pp.
- Norris, K.S. 1994. Predators, Parasites, and Multispecies Aggregations. In K.S. Norris, B. Wursig , R.S. Wells and M. Wursig (Eds.), *The Hawaiian Spinner Dolphin*. University of California Press, Berkeley. Pp. 14-30.
- Norris, K.S. and T.P. Dohl. 1980. Behavior of the Hawaiian spinner dolphin, *Stenella longirostris*. *Fishery Bulletin*, 77(4):821-849.
- Norris, K.S., B. Wursig, R.S. Wells, M. Wursig, S.M. Brownlee, C. Johnson and J. Solow. 1985. The behavior of the Hawaiian spinner dolphin, *Stenella longirostris*. NMFS Southwest Fisheries Center Administrative Report No. LJ-85-06C. 213 pp.
- Norris, K.S., B. Wursig, and R.S. Wells. 1994. The Spinner Dolphin. In K.S. Norris, B. Wursig , R.S. Wells and M. Wursig (Eds.), *The Hawaiian Spinner Dolphin*. University of California Press, Berkeley. Pp. 14-30.
- Oberbillig, D.E. 2000. *Providing Positive Wildlife Viewing Experiences: A Practical Handbook*. Watchable Wildlife, Inc., Colorado Division of Wildlife Publication. 68 pp.
- Orams, M.B., G.J.E. Hill and A.J. Baglioni, Jr. 1996. ``Pushy" behavior in a wild dolphin feeding program at Tangalooma, Australia. *Marine Mammal Science*, 12(1):107-117.

Ostman-Lind, J., A. Driscoll-Lind and S.H. Rickards. 2004. Delphinid abundance, distribution and habitat use off the western coast of the Island of Hawaii. NMFS Southwest Fisheries Science Center Administrative Report LJ-04-02C. 28 pp.

Ross, G. 2001. Response of Hawaiian spinner dolphins, *Stenella longirostris*, to boat presence in Midway Atoll. Masters Thesis, San Francisco State University. 74 pp.

Samuels, A., and L. Bejder. 1998. Habitual interactions between humans and wild bottlenose dolphins (*Tursiops truncatus*) near Panama City Beach, Florida. Report to the Marine Mammal Commission, Silver Spring, MD. 13 pp.

Samuels, A., and L. Bejder. 2004. Chronic interaction between humans and free-ranging bottlenose dolphins near Panama City Beach, Florida, USA. *Journal of Cetacean Research and Management*, 6(1):69-77.

Samuels, A., L. Bejder and S. Heinrich. 2000. A Review of the Literature Pertaining to Swimming with Wild Dolphins. Report to the Marine Mammal Commission. 57 pp.

Santos, M.C.d.O. 1997. Lone sociable bottlenose dolphin in Brazil: Human fatality and management. *Marine Mammal Science*, 13(2):355-356.

Seideman, D. 1997. Swimming with trouble. *Audubon*, 99:76-82.

Shane, S.H., L. Tepley and L. Costello. 1993. Life threatening contact between a woman and a pilot whale captured on film. *Marine Mammal Science*, 9(3):331-336.

Webb, N.G. 1978. Women and children abducted by a wild but sociable adult male bottlenose dolphin. *Carnivore*, 1(2):89-94.

Wells, R.S. and K.S. Norris. 1994. The island habitat. In K.S. Norris, B. Wursig, R.S. Wells and M. Wursig (Eds.), *The Hawaiian Spinner Dolphin*. University of California Press, Berkeley. Pp. 31-53.

Wilson, B. 1994. Review of dolphin management at Monkey Mia. Department of Conservation and Land Management, Perth, Western Australia. 37 pp.

Wursig, B., R.S. Wells, K.S. Norris and M. Wursig. 1994. A spinner dolphin's day. In K.S. Norris, B. Wursig, R.S. Wells and M. Wursig (Eds.), *The Hawaiian Spinner Dolphin*. University of California Press, Berkeley. Pp. 65-102.